

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of N. H. and C. H., Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

TONY JOSEPH HINER,

Respondent-Appellant,

and

JENNIFER LOUISE BATES,

Respondent.

In the Matter of N. H. and C. H., Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

JENNIFER LOUISE BATES,

Respondent-Appellant,

and

TONY JOSEPH HINER,

Respondent.

Before: Talbot, P.J., and Whitbeck and Owens, JJ.

UNPUBLISHED

February 9, 2010

No. 293115

Kent Circuit Court

Family Division

LC Nos. 08-052396-NA

08-052397-NA

No. 293127

Kent Circuit Court

Family Division

LC Nos. 08-052396-NA

08-052397-NA

PER CURIAM.

Respondents appeal as of right from the order terminating their parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i) [conditions leading to adjudication continue to exist] and (g) [failure to provide proper care and custody]. We affirm.

Respondent-father initially contends that the only efforts made by the agency to help him overcome his major depression and substance abuse issues consisted of “merely hand[ing] him brochures about what he could do to get his children back” and recommending that he attend Narcotics Anonymous/Alcoholics Anonymous (“NA/AA”) meetings.¹ “Although respondent[-father] has not expressly challenged the sufficiency of the evidence for termination of his parental rights, his contention that reasonable services were not offered ultimately relates to the issue of sufficiency.” *In re Fried*, 266 Mich App 535, 541; 702 NW2d 192 (2005).

At the outset, we note that respondent-father’s claim is not timely since he failed to protest when the treatment plan was adopted or soon thereafter. *In re Terry*, 240 Mich App 14, 26; 610 NW2d 563 (2000). In addition, we find that reasonable services were offered to respondent-father. Although the family was involved with Children’s Protective Services in July of 2007, this proceeding did not begin until June of 2008. During that intervening year, the agency made a concerted effort to keep the children in the home, including the providing of services through Families First, Advanced Impact, and Early Impact, along with the scheduling of an October 30, 2007, substance abuse assessment for respondent-father, which he failed to complete.

Even after conditions deteriorated and it was necessary for the children’s safety to remove them from the home, efforts continued to reunify the family. The services provided to treat respondent-father’s substance abuse included not only Narcotics Anonymous/Alcoholics Anonymous (“NA/AA”) meetings but also the provision of random drug screens, a drug assessment, individual and group counseling, and repeated recommendations that respondent-father participate in a residential program and/or intensive outpatient (“IOP”) treatment to address his substance abuse issues. Respondent-father refused to be placed on a waiting list for a residential program, alleging he did not want to be treated at a methadone clinic. Although respondent-father elected to focus on his substance abuse before addressing treatment for his diagnosis of depression, he failed to follow through with a scheduled IOP. This evidence establishes that the agency offered sufficient services but that respondent-father either outright refused or failed to take advantage of those services.

Next, respondent-father claims the treatment plan lacked clear referrals and funding sources, and that this problem was confounded by a turnover in foster care workers. However, respondent-father fails to identify which goals and/or action steps of the treatment plan were

¹ Respondent-father mischaracterizes testimony regarding the provision of a brochure by the agency. The brochure provided to respondent-father pertained only to parenting classes and was not intended to address possible services to address his depression or substance abuse issues. In addition, the brochure was provided to permit respondents the opportunity to select a parenting class that would accommodate their schedules and transportation needs.

unfairly vague. He also does not explain how an alleged lack of funding adversely impacted the provision of services to him.² Further, the lower court record does not support respondent-father's claim that the change in foster care workers prevented the foster care worker or respondents from having a clear understanding of what services or funding were available. Contrary to respondent-father's contention, the treatment plan goals remained consistent across assigned foster care workers and there was no indication of any confusion existing with regard to the services or funding available.

With regard to respondent-mother, while she initially demonstrated some progress in meeting the goals enumerated in the treatment plan, she failed to effectuate the necessary behavioral changes and began to regress in the later part of the proceedings. In February of 2009, respondent-mother stopped attending NA/AA meetings. The following month, she was jailed and, when released, failed to contact her counselor or disclose her whereabouts. Respondent-mother failed to attend the June 9, 2009, termination hearing. Although services had been provided to both respondents since July of 2007, they had made little to no progress during that time period, and any progress initially demonstrated by respondent-mother was eliminated by her lack of compliance and effort on the treatment plan during the final four months of the proceeding.

In further support of the termination of parental rights, we note that during the course of these proceedings, respondents tested positive for a variety of drugs, never complied with the court order to attend 30 NA/AA meetings in 30 days, failed to pursue residential or IOP substance abuse treatment, and never demonstrated any sustained period of sobriety. Respondents' substance abuse problems rendered them unable to effectively parent the children. In addition, they lacked suitable housing or sufficient financial resources to support the children. Both respondents were jailed during the course of these proceedings. As such, the evidence demonstrates that the trial court did not clearly err in basing termination of respondents' parental rights upon MCL 712A.19b(3)(c)(i) and (g). MCR 3.977(J); *In re Trejo*, 462 Mich 341, 356; 612 NW2d 407 (2000).

Finally, the court did not err in its best interests determination. MCL 712A.19b(5). In this case, the oldest child demonstrated strong and adverse reactions to parenting time with respondents and the youngest child had been living in a foster care setting for nearly half of her young life. Although there was evidence of a bond between respondents and the children, the children's behavior was indicative of having experienced trauma while in respondents' care. As such, termination of respondents' parental rights was in the children's best interests.

Affirmed.

/s/ Michael J. Talbot
/s/ William C. Whitbeck
/s/ Donald S. Owens

² Although the foster care worker stated at an August 2008 hearing that it could be difficult to find funding to treat respondent-father's depression with psychiatric medication, no such medication was ever pursued because respondent-father elected to focus on his substance abuse.